

ASSEMBLY BILL

No. 690

Introduced by Assembly Member Jones

February 21, 2007

An act to add Sections 745 and 746 to the Public Utilities Code, relating to water corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 690, as introduced, Jones. Water corporations: rates.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including water corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit the rates of a water corporation from exceeding the amount necessary to recover the reasonable expenses incurred to provide water service and a reasonable return on capital invested by the water corporation and its shareholders for service to the public. The bill would prohibit a water corporation from recovering in rates, a return on its reasonable expenses incurred to provide water service, or from recovering a return on investments contributed by developers, public agencies, or ratepayers.

The bill would require, if a water corporation receives monetary compensation for damage resulting from contamination of the utility's water supply, that the commission require the utility to equitably allocate the compensation between the ratepayers and investors of the utility and to require the utility to invest the monetary compensation in a replacement source of water supply to the extent necessary to meet current and future needs of its customers. The bill would require the

commission to require the utility to allocate compensation to reduce the cost to ratepayers of any replacement water supply required as a result of the contamination, to the extent that the utility has received a return on its investment in the damaged equipment or facilities from its ratepayers. The bill would authorize the commission to allow a water corporation to include in the rate base of the utility, that portion of the proceeds invested in a replacement source of water supply as is necessary to restore the utility's book value for any reduction resulting from the contamination.

(2) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) It is the existing policy of the state that rates and charges
4 established by the Public Utilities Commission for water service
5 provided by water corporations provide revenues and earnings
6 sufficient to afford the utility an opportunity to earn a reasonable
7 return on its used and useful investment and to attract capital for
8 investment on reasonable terms and to ensure the financial integrity
9 of the utility, to minimize the long-term cost of reliable water
10 service to water customers.

11 (b) It is a basic principle of ratemaking to establish a rate which
12 will permit the utility to recover its costs and expenses plus a
13 reasonable return on the value of property devoted to public use.
14 Thus, the profit of the utility is calculated solely on the rate base,
15 which is the capital contributed by its investors and the utility is

1 not entitled to earn an additional profit on its expenses, but only
2 to recover them on a dollar-for-dollar basis as part of the rates.

3 (c) The Public Utilities Commission has not, however, been
4 consistent in following this basic principle of ratemaking and has
5 recently authorized a water corporation to increase its rate base as
6 a result of investments that were not provided by the utility's
7 investors.

8 (d) Permitting water corporations to earn a return on investments
9 that were not made by the utility's investors, but which were
10 instead made by developers, public agencies, or the water
11 corporation's customers, is inconsistent with state policy and basic
12 principles of ratemaking.

13 SEC. 2. The Legislature further finds and declares all of the
14 following:

15 (a) Groundwater contamination has caused water corporations
16 to abandon wells that have been substantially paid for by the
17 utility's ratepayers through depreciation costs included in the
18 utility's rates. Many of these wells would have provided many
19 additional years of safe, reliable, and economical water supply but
20 for the contamination.

21 (b) Groundwater contamination has also required many water
22 corporations to develop new sources of water supply that are much
23 more costly than the water that was supplied by the abandoned
24 wells.

25 (c) Many water corporations that have abandoned wells as a
26 result of groundwater contamination have as a result of claims or
27 litigation, obtained compensation for the damage resulting from
28 the contamination from insurers and the parties responsible for the
29 contamination.

30 (d) In those situations where an abandoned well has been paid
31 for in whole or substantial part by the ratepayers of the water
32 corporation, in fairness, the proceeds of any claim or litigation
33 should be wholly or substantially allocated to reducing the costs
34 to be charged to ratepayers for a replacement source of water.

35 (e) The Public Utilities Commission has failed to establish a
36 consistent policy or practice to equitably allocate funds received
37 by a water corporation in compensation for groundwater
38 contamination received from insurers and responsible third parties.

39 (f) It is the policy of this state that to the extent possible, in
40 allocating compensation received by a water corporation in

1 compensation for damage to a source of water supply, that both
2 the ratepayers and the shareholders of the water corporation should
3 be returned to the same financial position each was in before the
4 contamination occurred.

5 SEC. 3. Section 745 is added to the Public Utilities Code, to
6 read:

7 745. (a) The rates of a water corporation shall not exceed the
8 amount necessary to recover the reasonable expenses incurred to
9 provide water service and a reasonable return on capital invested
10 by the water corporation and its shareholders for service to the
11 public. The commission may authorize a water corporation to
12 retain and reinvest earnings and to earn a rate of return on
13 reinvested capital.

14 (b) No water corporation shall recover in rates, a return on its
15 reasonable expenses incurred to provide water service.

16 (c) No water corporation shall recover in rates, a return on
17 investments contributed by developers, public agencies, or
18 ratepayers.

19 SEC. 4. Section 746 is added to the Public Utilities Code, to
20 read:

21 746. (a) If a water corporation receives monetary compensation
22 for damage resulting from contamination of the utility's water
23 supply, the commission shall require the utility to equitably allocate
24 the compensation between the ratepayers and investors of the
25 utility.

26 (b) If a water corporation receives monetary compensation for
27 damage to the utility's equipment or facilities as a result of
28 contamination, to the extent that the utility has received a return
29 on its investment in the equipment or facilities from its ratepayers,
30 the commission shall require the utility to allocate compensation
31 to reduce the cost to the ratepayers of any replacement water supply
32 required as a result of the contamination.

33 (c) If a water corporation receives monetary compensation for
34 damage resulting from contamination of the utility's water supply,
35 the commission shall require the utility to invest the monetary
36 compensation in a replacement source of water supply to the extent
37 necessary to meet the current and future needs of its customers.
38 No water corporation shall include in rates, the proceeds invested
39 in a replacement source of water supply except to the extent
40 necessary to restore the utility and its ratepayers to the same

1 financial condition they would have been in but for the
2 contamination.

3 (d) Notwithstanding subdivision (c), the commission may allow
4 a water corporation to include in the rate base of the utility, that
5 portion of the proceeds invested in a replacement source of water
6 supply as is necessary to restore the utility's book value for any
7 reduction resulting from the contamination.

8 SEC. 5. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.